



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, May 13, 2010, 7:00 p.m.
777 B Street, Hayward, CA 94541**

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Mendall.

ROLL CALL

Present:	COMMISSIONERS:	McKillop, Loché, Peixoto, Thnay, Lavelle
	CHAIRPERSON:	Mendall
Absent:	COMMISSIONER:	Márquez

Commissioner McKillop led in the Pledge of Allegiance.

Staff Members Present: Conneely, Cruz, Fakhrai, Pearson, Rizk

General Public Present: 8

PUBLIC COMMENTS

None

WORK SESSION

1. Draft South Hayward BART/Mission Boulevard Form-Based Code

Director of Development Services David Rizk introduced the consultants for this project including Laura Hall of Hall Alminana, Robert Alminana (Architect, Hall Alminana), and Kevin Colin (Planner, Lamphier-Gregory). Ms. Hall gave a brief overview of the project before introducing Mr. Alminana who presented the highlights of the proposed code updates. Kevin Colin explained the process from pre-application to construction and Director of Development Services Rizk summarized the Next Steps.

Commissioner Peixoto asked if the residential housing along Mission Boulevard would have stoops. Robert Alminana said not unless there was a slip lane that ran parallel to Mission because the setback for a stoop is very shallow. Commissioner Peixoto then asked how the City can control building height using a form-based code. Mr. Alminana explained that the form-based code measures building height by stories as well as feet just for that purpose. Only the first floor is measured in feet because of the retail use, he said. Mr. Peixoto said during the presentation he saw a detail on one of the buildings that he really liked and he asked if those kinds of details are written into the code. Mr. Alminana explained that what Mr. Peixoto noticed is called an expression line and it occurs between the second and third floor and those types of details are definitely written into the code.

Commissioner Loché asked Mr. Alminana for a more detailed explanation of the colors and the types of transportation they represent for the thoroughfares shown in the presentation and report. Commissioner Loché also asked how frequently a Community Service District (CSD) is used as a solution to offset costs to the General Fund. Director of Development Services Rizk explained that as revenues grow tighter, more cities are turning to CSDs as a solution, especially cities that experience fast growth. In Hayward, Mr. Rizk said a CSD has been established in the Cannery area as one of the conditions of approval.

Commissioner Thnay asked for more information regarding the parking requirements for the project. Mr. Alminana explained that because this is a transit-oriented neighborhood, developers have the option to not meet minimum parking standards. The same is true for non-residential areas, Mr. Alminana explained, however, a retailer or employer may choose to meet certain standards. Using the area surrounding BART in East Dublin as a current example, Commissioner Thnay expressed concern that this policy may lead to serious parking shortages and suggested giving residents more time to get into the habit of using alternative forms of transportation. Mr. Thnay was also concerned that retail developers may rely on each other to provide the necessary parking rather than realistically plan for it themselves. Mr. Alminana pointed out that there are eight different parking strategies included in the Nelson/Nygaard report and between them there should be a way to provide sufficient parking.

Commissioner Thnay approved of the solar aspect of the sustainability proposals, but questioned the practicality of the wind turbines saying the area isn't that windy. If the City is going to charge residents a CSD fee, Mr. Thnay said the services that are used should be proven sufficient. Commissioner Thnay then expressed concern that the proposed traffic lanes are too narrow and suggested they be reconsidered. He also suggested that the thoroughfare map that Mr. Loché referred to earlier, be more reader-friendly with the definitions included on the map.

Commissioner McKillop said she thought staff was going to reconsider the parking requirements for the project and asked for an update. Director of Development Services Rizk said staff is addressing the recommendations in the Nelson/Nygaard report which does suggest elimination of minimum parking standards, but also suggests creating a residential parking district and doing cash-outs on meters. Mr. Rizk said staff is also considering other transportation demand management (TDM) and parking strategies that the City could implement along with the code to address some of the concerns expressed.

Commissioner McKillop asked the consultants if these same problems had arisen on previous projects and how were they dealt with. Mr. Alminana pointed out that every time parking is provided, especially free parking, the public is being encouraged to drive. He said that when parking is more difficult people start doing other things like using CarShare, taking the bus, riding their bikes or just walking. Mr. Alminana also pointed out that while there won't be minimum parking standards, there will still be parking. He said the money saved by developers could be used for something else. Director Rizk directed the Commissioners to a link in the staff report that details several case studies of cities that have successfully implemented the recommended parking strategies.

Chair Mendall asked if a parking plan is going to come back to the Planning Commission. Director Rizk said he is hoping that funding can be found to develop a comprehensive parking and TDM



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strategy and bring that before the Commission for consideration. Chair Mendall said he preferred that to another staff report.

Commissioner Lavelle asked the consultants to explain the design principles behind the creation of the proposed smaller and odd-shaped blocks at, for example, the corner of Mission Boulevard and Harder Road. Mr. Alminana explained that the smaller blocks are designed with pedestrians, and pedestrian safety, in mind. The roads, he continued, are all linked together and lead to the center of this commercial neighborhood. When Commissioner Lavelle asked if big stores like Kmart would have to be eliminated, Mr. Alminana said no, they can still exist, the parking would just be in the back and there would still be room for other small stores on the surrounding blocks.

Commissioner Lavelle also asked why, according to the report, the Planning Commission will be asked to review the progress of the form-based code every five years. Director of Development Services Rizk said the City wants to monitor progress to make sure development is reflecting the City's priorities and visions and that the code is still what they want. Commissioner Lavelle asked if this review would occur in conjunction with new proposals (that would come before the Commission anyway) or separately. Director Rizk said that depends on the kind of review required for the project, for example, a conditional use permit versus an administrative use permit, but most likely the review would occur on a periodical basis not related to a specific proposal. Commissioner Lavelle asked if changes to the code could be made based at the time of the review and Mr. Rizk concurred this could be an outcome.

Kevin Colin, Planner for Lamphier-Gregory, commented that he included that five-year review provision because of the piecemeal way the current zoning ordinance has been maintained. Presuming five years is enough time to plan and build something, he said the review will allow everyone to evaluate what has been done and take the time to consciously review the big and small picture in terms of accomplishing overall goals.

Commissioner Lavelle commented that safety is a key issue for pedestrians and she liked the smaller walkable blocks and that residents have street options other than Mission Boulevard. Ms. Lavelle felt strongly that civic spaces need to be concurrently developed with housing so residents have immediate access to areas for walking and biking when they move in. She emphasized that these civic spaces are critical or people will go back in their cars.

Finally, Commissioner Lavelle asked staff how they see implementation of the code as enticing to developers to come to Hayward to do something as new and as modern as a form-based code in these extremely challenging economic times. Director of Development Services Rizk explained that by adding density to any development means adding value. He said there's also a provision for developers who dedicate street frontage that they are allowed additional units above what is typically allowed; this provision will act like an incentive because it also adds value. Planning is also seeking grants to make some public infrastructure improvements in the area, Mr. Rizk said, and is working with the Redevelopment Agency as effectively as possible, although the State has been taking RDA monies and tax increment revenue is also down. Mr. Rizk said Planning will also

work with Redevelopment to market the code and let developers know what is happening in Hayward. He also pointed out that the South Hayward BART area has big growth potential and the Montana-Witteck-Eden Housing project will hopefully serve as a catalyst as well as the sale of open land by the State. Mr. Rizk said that even during an economic downturn, now is a good time to be laying out these plans and hopefully, in the not too distant future, the vision will be realized.

Chair Mendall asked if \$500 to \$600 per year is a standard charge for a Community Service District (CSD) to create and maintain park areas, lighting, and landscaping. Director of Development Services said \$500 was not an unusual amount for a large new development, but pointed out that an amount has not been assessed, that was just the figure the economist used to break even, and that an analysis will have to be conducted to determine the per unit assessment. Chair Mendall said he did not have a problem with that kind of assessment.

Chair Mendall asked Mr. Alminana to explain what is meant by the phrase “by warrant” as now stated in the code. Mr. Colin explained that two new categories of variances are going to be created under the form-based code and they are calibrated according to the urban design principles of the code. For example, if a developer wanted to change a fence height by six inches, Mr. Colin explained, “by warrant” would allow Mr. Rizk to give or deny that approval. If the developer wanted to change the building height, or some element that is specifically articulated in the code, they would have to come before the Planning Commission, he said. The phrase is a differentiation to help ease the administration to incentivize following the code versus challenging the code, Mr. Colin said.

Chair Mendall commented that during conversations regarding the Mission Boulevard Corridor form-based code project there was discussion of a frontage street. He asked if a similar road was being considered along Mission for this project, especially between Industrial and Tennyson, and possibly between Tennyson and Harder. Chair Mendall said he didn’t want any decisions made that precluded adding this safety feature. Mr. Alminana said that a frontage road was currently not included in the project and to include one the plans would have to be modified. Director of Development Services Rizk said staff will discuss a frontage road with the consultant. Referred to as a “slip lane,” Mr. Rizk said that the concept design plan included one and residents have spoken in favor of it. Mr. Rizk said staff will have to look at the impacts on private property, especially along northern Mission where all parking lanes would have to be eliminated, and whether or not a slip lane would add value to those properties. Chair Mendall said whether or not it will work, he would like the idea considered.

Chair Mendall said he would like more detail regarding the proposed “mini neighborhoods” that Mr. Alminana touched on when responding to Commissioner Lavelle’s question about block size. Mr. Alminana reiterated what he said earlier and Chair Mendall suggested that the project be promoted on a neighborhood by neighborhood basis so residents can focus on their particular area rather than the entire project. Chair Mendall also requested that the thoroughfare map have the road description right on the map rather than asking people to flip to a different page for definitions. Regarding the earlier discussion about parking, Chair Mendall pointed out that when dividing existing big blocks into smaller, walkable blocks, the City will be adding roads and all those roads will have “a ton” of new street parking. Chair Mendall said he favors the five-year review period.



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Finally, Chair Mendall expressed frustration with the project's plan to up-zone a large number of parcels without asking the owners for anything in return. He acknowledged that owners would be giving up land for new roads, but said the City is giving up leverage by rezoning these parcels without requiring owners to set aside a percentage of the land for neighborhood parks. Director of Development Services Rizk explained that the City does have a park in-lieu fee in place for potential developers and those per unit fees would go toward acquiring land for parks, and building and maintaining them. He said developers also have to reserve 10-15% per lot for open space. Mr. Rizk continued by saying that through the regulations and standards of the form-based code itself, developers will transform the underutilized area and that is a direct benefit to the City. Chair Mendall said he understood that but expressed concern that the code didn't provide any leverage if a property owner decided not to participate after being upzoned. Mr. Rizk explained that the code would require landowners to allow for new roads and the added densities and more productive use of the land should offset any complaints from them. Mr. Rizk said the economist also did an analysis of land values with and without the roads, and the values increased because more housing units face the street. Chair Mendall said that was valuable in terms of convincing landowners why they should participate, but he said to protect City interests, the parcel shouldn't be upzoned until the road is built.

Ms. Hall explained that the plan contains regulations that are also laws and these laws would require landowners to comply with the form-based code. Ms. Hall also suggested that rather than thinking the City is giving away densities, that, she admitted, in the past has been manifested into some really ugly developments, a better way to think about it is to realize the developers are providing more services, improving transit, and actually giving a gift to the City, but only if they follow the code.

Chair Mendall reiterated "IF" they do it right. He said he just wants to make sure the developers do it right when it comes to dedicating their land to build new streets. Ms. Hall asked Chair Mendall what language would reassure him that they would. Chair Mendall said that he would like to see written that all of the density "bonuses" are conditional based upon the creation of the new streets. Director of Development Services Rizk said projects would have that condition and the City has added the higher densities to make that condition more palatable for the potential developer. Mr. Rizk also reiterated that by adopting the code the City is gaining the reassurance that the same standards are being followed project by project to create an integrated plan. He said simply, "How do we ensure that the dedication comes with the development proposal? We require it."

Chair Mendall said he wished that was enough to reassure him, but some parcels are losing (he approximated) half the land to new streets while adjacent parcels benefit without the same cost. "That is a really bum deal for the person who's losing half their property, so why would they agree to that?" he asked. "They wouldn't." Yes, we're offering them incentives, yes we're asking them nicely, but that just doesn't seem like enough, he said. Mr. Rizk said he thinks it is enough and staff has considered the placement of the new streets and many of them (primarily those running west to east) are on the undeveloped Caltrans properties. Regarding the proposed road that will run parallel to the BART tracks, Mr. Rizk said that over time that will become a viable asset to developers.

Chair Mendall replied that it would only take one property owner along that street to say “no” and the street wouldn’t work. Mr. Rizk said the City could always use eminent domain, but he said the City is hoping it won’t come to that point with the incentives built into the code.

Commissioner Thnay asked for confirmation that once the form-based code is adopted, and old codes will be abandoned and potential developers will only have the one option. “This is the plan for the future,” he said. “Anyone who wants to come in needs to buy into this.” Regarding retail opportunities under a form-based code, Commissioner Thnay asked if the City will have a “plan line” or regulations that will keep retailers and developers from creating haphazard access points, or driveways, from the main road.

To address the concerns expressed by Chair Mendall, Mr. Alminana said the thoroughfares and smaller block divisions were studied very carefully and most fall on Caltrans property. The roads that do traverse private property, especially key lots, Mr. Alminana said the owners have already been contacted and have expressed excitement about the pending project. Regarding the proposed road that runs along the BART track, Mr. Alminana concurred that all property owners may not agree to participate, but he continued saying that once the holdouts see the benefits being enjoyed by the participant leaders, they will eventually follow suit. Mr. Alminana acknowledged that total participation just doesn’t happen. Director of Development Services Rizk, in response to Commissioner Thnay’s question, said there will still be a precise plan process which would consider proposed roadways and access points.

Commissioner Thnay asked for confirmation that the property owners whose parcels were upzoned would be responsible to fund a higher proportion of the civic space requirements based on the higher densities. Mr. Rizk said yes, the park in-lieu fee would be charged on a per unit basis and would go toward large park areas that include civic buildings like a community center and that is in addition to the common open spaces which are also known as group open spaces. Commissioner Thnay concluded that property owners would be paying for the upzone indirectly.

Director of Development Services Rizk recognized that Chair Mendall’s concerns had not been completely satisfied, but rather than take more time, Chair Mendall requested that the issue be readdressed in a follow-up report or discussion. Chair Mendall then concluded the work session discussion.

PUBLIC HEARING

2. Determination that the recommended FY11-FY20 Capital Improvement Program is consistent with the City's General Plan

Deputy Director of Public Works Morad Fakhrai gave a synopsis of the report noting that last year, as it had for the previous four years, the City of Hayward’s Capital Improvement Program received an Award of Excellence from the California Society of Municipal Financial Officers.

Commissioner Peixoto thanked Deputy Director Fakhrai for the report and noted that during a recent visit to the Fairway Park neighborhood, residents indicated that the barriers placed at residential intersections have been effective in slowing down traffic. However, Mr. Peixoto noted that the barriers resemble large yellow garbage cans and he asked Mr. Fakhrai if there is any plan to



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replace those with something more attractive. Mr. Fakhrai said yes, the barriers will be replaced with median landscaping in the next fiscal year (within the next 14 months).

Commissioner Lavelle thanked Mr. Fakhrai for the report and noted that the most challenging number was \$205 million in unmet needs. She expressed hope that some of the City's improved development would bring much needed financial resources to Hayward. Commissioner Lavelle made a motion for the Planning Commission to find that the FY11-FY20 Capital Improvement Program is consistent with the City's General Plan. Commissioner Peixoto seconded the motion.

Chair Mendall said he loved the mural program and said he would like to see murals in South Hayward and other parts of the City. Deputy Director Fakhrai said the mural program is now an annual program with a budget of \$90,000 per year. Chair Mendall cited the statistic that it costs the City \$120 to paint over a "tag" on a utility box and only \$150 to have an artist paint a mural. Mr. Fakhrai said the utility box mural program has been very successful, noting that most of the City's downtown traffic signal control boxes have been painted and while PG&E has been cooperative, allowing the City to paint its utility boxes, AT&T has not (Mr. Fakhrai said staff is working on that).

Chair Mendall commented that in the future he would like to see a progress report or a line item in the Capital Improvement Program that shows monies spent to meet Climate Action Plan and other City efficiency goals. Deputy Director Fakhrai said that under Utilities, the report does contain information on several on-going projects and long-term goals that work towards the City's sustainability efforts.

There being no other comments, the motion passed 6:0:1 with the following vote:

AYES:	Commissioners McKillop, Loché, Peixoto, Lavelle, Thnay Chair Mendall
NOES:	None
ABSENT:	Commissioner Márquez
ABSTAINED:	None

3. Housing Element of the General Plan

Senior Planner Erik Pearson indicated that staff has been in regular contact with the State Department of Housing and Community Development and that at its recommendation staff has added a new program (addressing large sites identified for potential housing development), a description of which was distributed to the Commissioners prior to the meeting. Mr. Pearson then introduced Veronica Tam, of Veronica Tam & Associates, LLC, the consultant responsible for preparing the Housing Element of the General Plan, who provided a brief overview of the comments made by the State.

Senior Planner Pearson added that pursuant to the California Environmental Quality Act, an initial study and Mitigated Negative Declaration had been prepared and staff is asking that the Commission recommend to Council that they adopt the Mitigated Negative Declaration and the Housing Element.

Commissioner Peixoto asked Ms. Tam why the State wanted a more detailed report on the City's processing procedures and timeframe. Ms. Tam explained that the State wanted to see how long a single-family and a multi-family project would take to progress through the City's approval process. Commissioner Peixoto then asked Ms. Tam if the Inclusionary Housing Ordinance was a tool to assist the City to meet the stated goals of the Housing Element or if it was a State requirement. Ms. Tam replied that the ordinance was not a requirement, but a tool the City uses to achieve its affordable housing development goals. Ms. Tam confirmed for Mr. Peixoto that if a City has enough money to subsidize affordable housing projects they wouldn't need to apply for inclusionary housing assistance funding. Mr. Peixoto asked Ms. Tam if the City of Pleasanton has an inclusionary ordinance and Ms. Tam said she didn't know. Director of Development Services Rizk indicated that he didn't know either.

Chair Mendall opened and closed the Public Hearing at 9:25 p.m.

Commissioner Thnay made the motion that the Planning Commission recommend that the City Council adopt the Mitigated Negative Declaration, the Mitigation Monitoring and Reporting Program, and the Housing Element, including the new program addressing large potential development sites. Commissioner Peixoto seconded the motion.

There being no other comments, the motion passed 6:0:1 with the following vote:

AYES:	Commissioners McKillop, Loché, Peixoto, Lavelle, Thnay Chair Mendall
NOES:	None
ABSENT:	Márquez,
ABSTAINED:	None

ADDITIONAL MATTERS

4. Oral Report on Planning and Zoning Matters

None

5. Commissioners' Announcements, Referrals

Commissioner Lavelle invited the Commissioners to attend the Volunteer Open House sponsored by the Office of the City Clerk on Monday, May 24th at City Hall. The event will give potential members an opportunity to meet representatives from the City's various boards, commissions, committees and task force and ask questions. Chair Mendall encouraged the Commissioners to attend the Volunteer Open House.



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ADJOURNMENT

Chair Mendall adjourned the meeting at 9:29 p.m.

APPROVED:

Elisa Márquez, Secretary
Planning Commissioner

ATTEST:

Suzanne Philis, Senior Secretary
Office of the City Clerk